



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,664	01/15/2004	Fred Messenger	112025-0080C1	5895
24267	7590	07/05/2007		
CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210			EXAMINER WATT, CHRIS A	
			ART UNIT	PAPER NUMBER
			2174	
			MAIL DATE	DELIVERY MODE
			07/05/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,664	<b>Applicant(s)</b> MESSINGER ET AL.	
	<b>Examiner</b> Chris Watt	<b>Art Unit</b> 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/9/07</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. Claim 56 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically a software application in Electromagnetic signals. Computer programs claimed as computer code per se, i.e., the descriptions or expressions of the programs, are not physical "things," nor are they statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed aspects of the invention, which permit the computer program's functionality to be realized. In contrast, a claimed computer readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus statutory.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacoby ("Jacoby" US Patent No. 5,768,552) in view of Tonelli et al. ("Tonelli" US Patent No. 5,821,937) and Planas et al. ("Planas" US Patent No. 6,112,015).

Regarding independent claim 1, Jacoby teaches a method for graphically presenting characteristics of data traffic on a distributed computer network, comprising monitoring traffic on said network; said graphical format representing said network in response to said monitoring, and a network represented as nodes connected by lines, said lines representing traffic flow between nodes (i.e. FIG. 3A-5 et seq. of Jacoby). Jacoby does not teach selecting characteristics for display or displaying value of characteristics in a property.

Tonelli teaches selecting a characteristic of said traffic for display; presenting said characteristic in a graphical format (i.e. compare FIGS. 2 and 7-11 et seq. of Tonelli). It would have been obvious to an artisan at the time of the invention to integrate the characteristic selection of Tonelli into the data traffic display of Jacoby. Said artisan would have been motivated to combine Tonelli into Jacoby to allow a user to design the view of the network so that each icon represents an intelligent media object based on a configuration discovered in an audit (i.e. see col. 2 line 37 et seq. of Tonelli).

Planas teaches displaying a property of at least one line of said lines, said property indicating a value of said characteristic (i.e. compare popup menu in Fig. 15 et seq. of Planas with properties and characteristics in Figs. 16-19 et seq. of Planas). It would have been obvious to an artisan at the time of the invention to integrate the property display of Planas into the data traffic display of Jacoby as modified by Tonelli. Said artisan would have been motivated to combine Planas into Jacoby to allow for the display of property and state information to the user of each node as affected by the

traffic information to compare the effect on relevant attributes of the node and traffic (i.e. see col. 2 line 31 et seq. of Planas).

Regarding dependent claim 2, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: obtaining said value from said monitoring during a selected time interval (i.e. note timestamp and correlated display changes in Fig. 21c et seq. of Planas).

Regarding dependent claim 3, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: displaying a sequence of said images, to display changes in said characteristics during a sequence of time intervals (i.e. note timestamp and correlated display changes in Fig. 21c et seq. of Planas).

Regarding dependent claim 4, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using a width of said at least one line as said property (i.e. compare lines in FIG. 3B et seq. of Jacoby; see also line width in FIG. 7 and 31 et seq. of Tonelli).

Regarding dependent claim 5, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using a color of said at least one line as said property (i.e. note colors in Fig. 21c et seq. of Planas).

Regarding dependent claim 6, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using an arrow drawn on said at least one line as said property (i.e. compare arrows in "Initializing" and "Terminating" icons in Fig. 8 et seq. of Planas).

Regarding dependent claim 7, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using a length of said at least one line as said property (i.e. compare lines in FIG. 31 with "Length" settings in FIG. 7 et seq. of Tonelli).

Regarding dependent claim 8, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using a density of said at least one line as said property (i.e. compare lines in FIG. 3B et seq. of Jacoby; see also line width in FIG. 31 et seq. of Tonelli).

Regarding dependent claim 9, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using a visual characteristic of said at least one line as said property (i.e. see FIG. 7 et seq. of Tonelli).

Regarding dependent claim 10, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: displaying a filtering expression in a graphical user interface; selecting, from said graphical user interface, records from network information files to display said characteristic of said traffic (i.e. "FILE" option in FIG. 4 et seq. of Jacoby; see also FIG. 3c-3e et seq. of Tonelli).

Regarding dependent claim 11, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 10, further comprising: calculating parameters that are associated with the records selected from network files and storing the parameters in a local file (i.e. "Configure Device" in FIG. 14a et seq. of Tonelli; see also "FILE" option in the control panel in FIG. 4 et seq. of Jacoby).

Regarding dependent claim 12, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: displaying the characteristic as any graphical black and white or color image capable of being displayed on a data visualization system coupled to said computer (i.e. see Fig. 21c et seq. of Planas).

Regarding dependent claim 13, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: using a filtering program to select records in network information files that meet selected filtering criteria (i.e. "FILE" option in FIG. 4 et seq. of Jacoby; see also FIG. 3c-3e et seq. of Tonelli).

Regarding dependent claim 14, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 13, further comprising: compiling the appropriate records from network information files during specified time intervals, each compiled record meeting at least one selected filtering criterion (i.e. "FILE" option in FIG. 4 et seq. of Jacoby; see also FIG. 3c-3e et seq. of Tonelli).

Regarding dependent claim 15, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 14, further comprising: calculating data that represent the compiled records, and storing the data in a file (i.e. "FILE" option in FIG. 4 et seq. of Jacoby; see also FIG. 3c-3e et seq. of Tonelli).

Regarding dependent claim 16, Jacoby, in combination with Tonelli and Planas teaches the method as in claim 1, further comprising: displaying a map of the network topology and overlaying the map with moving images that graphically portray the stored data, the moving images changing with time to reflect changes in the underlying data (i.e. compare FIG. 31 et seq. of Tonelli with Fig. 21c et seq. of Planas).

Regarding dependent claim 17, Jacoby, in combination with Tonelli and Planas teaches the method of claim 1, further comprising: including a time interval criterion which indicates how often to compile and package information from the network information files (i.e. note timestamp and correlated display changes in Fig. 21c et seq. of Planas; compare "FILE" option in FIG. 4 et seq. of Jacoby).

Regarding dependent claim 18, Jacoby, in combination with Tonelli and Planas teaches the method of claim 1, further comprising: displaying a network activity for a period of time within a starting time and an ending time specified within a filtering criteria (i.e. note timestamp and correlated display changes in Fig. 21c et seq. of Planas).

Regarding independent claim 19, Jacoby teaches a data visualization apparatus for graphically presenting characteristics of data traffic on a distributed computer network, comprising a distributed computer network, comprising means for monitoring traffic on said network; said network represented as nodes connected by lines, said lines representing traffic flow between nodes (i.e. FIG. 3A-5 et seq. of Jacoby). Jacoby does not teach selecting characteristics for display or displaying value of characteristics in a property.

Tonelli teaches means for selecting characteristics of said traffic for display; means for presenting said characteristics in a graphical format, said graphical format representing said network in response to said monitoring (i.e. compare FIGS. 2 and 7-11 et seq. of Tonelli). It would have been obvious to an artisan at the time of the invention to integrate the characteristic selection of Tonelli into the data traffic display of Jacoby. Said artisan would have been motivated to combine Tonelli into Jacoby to allow



a user to design the view of the network so that each icon represents an intelligent media object based on a configuration discovered in an audit (i.e. see col. 2 line 37 et seq. of Tonelli).

Planas teaches means for displaying a property of at least one line of said lines, said property indicating a value of said characteristics (i.e. compare popup menu in Fig. 15 et seq. of Planas with properties and characteristics in Figs. 16-19 et seq. of Planas). It would have been obvious to an artisan at the time of the invention to integrate the property display of Planas into the data traffic display of Jacoby as modified by Tonelli. Said artisan would have been motivated to combine Planas into Jacoby to allow for the display of property and state information to the user of each node as affected by the traffic information to compare the effect on relevant attributes of the node and traffic (i.e. see col. 2 line 31 et seq. of Planas).

Claim 20 is similar in scope to claim 2, and is therefore rejected under similar rationale.

Claim 21 is similar in scope to claim 3, and is therefore rejected under similar rationale.

Claim 22 is similar in scope to claim 4, and is therefore rejected under similar rationale.

Claim 23 is similar in scope to claim 5, and is therefore rejected under similar rationale.

Claim 24 is similar in scope to claim 6, and is therefore rejected under similar rationale.

Art Unit: 2174

Claim 25 is similar in scope to claim 7, and is therefore rejected under similar rationale.

Claim 26 is similar in scope to claim 8, and is therefore rejected under similar rationale.

Claim 27 is similar in scope to claim 9, and is therefore rejected under similar rationale.

Claim 28 is similar in scope to claim 10, and is therefore rejected under similar rationale.

Claim 29 is similar in scope to claim 11, and is therefore rejected under similar rationale.

Claim 30 is similar in scope to claim 12, and is therefore rejected under similar rationale.

Claim 31 is similar in scope to claim 13, and is therefore rejected under similar rationale.

Claim 32 is similar in scope to claim 14, and is therefore rejected under similar rationale.

Claim 33 is similar in scope to claim 15, and is therefore rejected under similar rationale.

Claim 34 is similar in scope to claim 16, and is therefore rejected under similar rationale.

Claim 35 is similar in scope to claim 17, and is therefore rejected under similar rationale.

Claim 36 is similar in scope to claim 18, and is therefore rejected under similar rationale.

Regarding independent claim 37, Jacoby teaches a data visualization apparatus for graphically presenting characteristics of data traffic on a distributed computer network, comprising a computer to monitor traffic on said network; said graphical format representing said network in response to said monitoring, said network represented as nodes connected by lines, said lines representing traffic flow between nodes (i.e. FIG. 3A-5 et seq. of Jacoby). Jacoby does not teach selecting characteristics for display or displaying value of characteristics in a property.

Tonelli teaches a graphical user interface to select a characteristic of said traffic for display; a visualization system to present said characteristics in a graphical format (i.e. compare FIGS. 2 and 7-11 et seq. of Tonelli). It would have been obvious to an artisan at the time of the invention to integrate the characteristic selection of Tonelli into the data traffic display of Jacoby. Said artisan would have been motivated to combine Tonelli into Jacoby to allow a user to design the view of the network so that each icon represents an intelligent media object based on a configuration discovered in an audit (i.e. see col. 2 line 37 et seq. of Tonelli).

Planas teaches instructions in said computer to display a property of at least one line of said lines, said property indicating a value of said characteristics (i.e. compare popup menu in Fig. 15 et seq. of Planas with properties and characteristics in Figs. 16-19 et seq. of Planas). It would have been obvious to an artisan at the time of the invention to integrate the property display of Planas into the data traffic display of

Art Unit: 2174

Jacoby as modified by Tonelli. Said artisan would have been motivated to combine Planas into Jacoby to allow for the display of property and state information to the user of each node as affected by the traffic information to compare the effect on relevant attributes of the node and traffic (i.e. see col. 2 line 31 et seq. of Planas).

Claim 38 is similar in scope to claim 2, and is therefore rejected under similar rationale.

Claim 39 is similar in scope to claim 3, and is therefore rejected under similar rationale.

Claim 40 is similar in scope to claim 4, and is therefore rejected under similar rationale.

Claim 41 is similar in scope to claim 5, and is therefore rejected under similar rationale.

Claim 42 is similar in scope to claim 6, and is therefore rejected under similar rationale.

Claim 43 is similar in scope to claim 7, and is therefore rejected under similar rationale.

Claim 44 is similar in scope to claim 8, and is therefore rejected under similar rationale.

Claim 45 is similar in scope to claim 9, and is therefore rejected under similar rationale.

Claim 46 is similar in scope to claim 10, and is therefore rejected under similar rationale.

Art Unit: 2174

Claim 47 is similar in scope to claim 11, and is therefore rejected under similar rationale.

Claim 48 is similar in scope to claim 12, and is therefore rejected under similar rationale.

Claim 49 is similar in scope to claim 13, and is therefore rejected under similar rationale.

Claim 50 is similar in scope to claim 14, and is therefore rejected under similar rationale.

Claim 51 is similar in scope to claim 15, and is therefore rejected under similar rationale.

Claim 52 is similar in scope to claim 16, and is therefore rejected under similar rationale.

Claim 53 is similar in scope to claim 17, and is therefore rejected under similar rationale.

Claim 54 is similar in scope to claim 18, and is therefore rejected under similar rationale.

Regarding dependent claim 55, Jacoby, in combination with Tonelli and Planas teaches a computer readable media, comprising: said computer readable media having instructions written thereon for execution on a computer for the practice of the method of claim 1 (see the analysis of claim 1 above).

Regarding dependent claim 56, Jacoby, in combination with Tonelli and Planas teaches Electromagnetic signals propagating on a computer network, comprising: said

Art Unit: 2174

electromagnetic signals carrying instructions for execution on a computer for the practice of the method of claim 1 (see the analysis of claim 1 above).

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Watt whose telephone number is (571) 270-1046. The examiner can normally be reached on Monday-Thursday 6:30-4:00 Eastern.

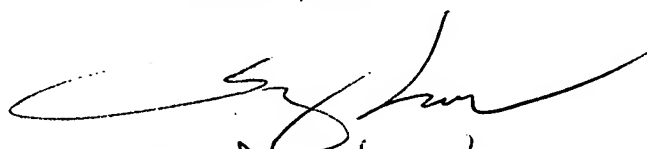
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris A. Watt/

June 21, 2007

CAW

  
SY D. LUV  
PRIMARY EXAMINER